

Notice of Allowability

Application No.

10/534,388

Examiner

Michael Bernshteyn

Applicant(s)

GASCHLER, WOLFGANG

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/08/2006.
2. ☒ The allowed claim(s) is/are 1-11.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Michael Bernshteyn
Patent Examiner
Art Unit 1713

DETAILED ACTION

1. This Office Action is a response to the remarks filed September 8, 2006. No claims have been amended, cancelled and added.
2. Applicant's arguments, see remarks, filed September 8, 2006 with respect to claims 1-11 have been fully considered and are persuasive. The rejection of claims 1-11 has been withdrawn.
3. Claims 1-11 are now pending.

EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Richard L. Chinn on November 16, 2006.

5. Claims 2, 5 and 6 have been amended as follows:

Claim 2, line 1: after the word "wherein" delete the word "the" and insert the word "said"; line 2: after the word "system" delete the words "which forms";

Claim 5, line 4: delete the words "and/or" and insert ","; line 5: delete "." at the end of the line and add: --or a mixture of thereof.--;

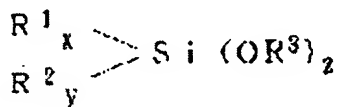
Claim 6, line 5: delete the words "and/or" and insert ","; line 5: delete "." at the end of the line and add: --or a mixture of thereof.--

Allowable Subject Matter

6. Claims 1-11 are allowed.
7. The following is examiner's statement of reasons for allowance:

The present claims are allowable over the closest references: Ishihara et al. (JP 07-090012 A) and Baguley et al. ("Reductive free-radical alkylations and cyclisations mediated by 1-alkylcyclohexa-2,5-diene-1-carboxylic acids", University of St. Andrews, School Of Chemistry, St. Andrews, File, UK KY16 9ST, Journal of the Chemical Society, Perkin Transaction 1: Organic and Bio-Organic Chemistry, 1998, 13, 2073-2082).

Ishihara discloses an organic silicon compound (D) of the formula:



wherein R¹ is an N-containing heterocyclic substituent; R² is a hydrocarbon group with 1-10 carbon atoms (or R⁴O, wherein R⁴ is a hydrocarbon group with 3-10 carbon atoms); R³ is CH₃ or C₂H₅; (x) is 1 or 2; (y) is 0 or 1; (z) is 2 or 3; x + y + z = 4 (e.g., 2,3,4-trimethyl-3-azocyclopentyltrimethoxysilane),

to obtain a polymerization catalyst component and copolymerizing propylene and ethylene in the presence of this catalyst component (abstract).

Ishihara discloses that aromatic system of the organosilicon compound can include ethyleneimine, pyrrole, pyrrolidine, pyrazole, imidazole, triazole, oxazole, thiazole, pyridine, pyrazine, etc. (page 7, [0040]).

Ishihara discloses a wide number of substituent for R¹ including five and six membered rings, which are the most desirable (pages 7-8, [0041]-[0043]). R², R³ and R⁴ can be alkyl, aryl and aralkyl groups, benzyl, phenyl, etc. (page 8, [0044]).

Therefore, the organic silicon compound of the above formula is readable as compound of the formulae (III) and (IV) in instant claim 4. The amount of the organic silicon compound in the polymer composition is within the claimed range (Example and table 1, pages 11-14, [0068]-[0076]).

Baguley discloses a range of 1-alkylcyclohexa-2,5-diene-1 carboxylic acids prepared by Birch reduction-alkylation of benzoic acid and their efficiency as mediators of alkyl radical chain addition and cyclisation processes (abstract).

Baguley discloses that 1-cyclopentylcyclohexa-2,5-cyclohexadiene-1 carboxylic acid, 1-tert-Butylcyclohexa-2,5-cyclohexadiene-1 carboxylic acid, 1-Benzylcyclohexa-2,5-cyclohexadiene-1 carboxylic acid, etc. are used as mediators with carboxylic acid, acrylonitrile, etc. for obtaining polymer compounds (Examples, pages 2079-2082).

However, Ishihara and Baguley do not disclose or fairly suggest a method of free radical polymerization as in claim 1.

8. As of the date of this Notice of Allowability, the Examiner has not located or identified any reference that can be used singularly or in combination with another reference including Ishihara et al. and Baguley et al. to render the present invention anticipated or obvious to one of ordinary skill in the art.

9. In the light of the above discussion, it is evident as to why the present claims are patentable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delay, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reason for Allowance".

Conclusion

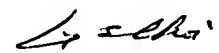
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bernshteyn whose telephone number is 571-272-2411. The examiner can normally be reached on M-F 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Bernshteyn
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MB
11/16/2006


JING-SUI CHOI
PRIMARY EXAMINER